

CITY OF MIAMI GARDENS

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CITY OF MIAMI GARDENS

MUNICIPAL CHARTER

Charter Commission Note - The following is the Charter of the City, as adopted by referendum on _____, 2003 and effective on _____, 2003.

On February 20, 2003, the Miami-Dade County Board of County Commissioners appointed the following residents as members of the City of North Dade Charter Commission: Al Brewster, Patricia Braynon, Wendell A. James, Jr., Euthera Neal and Thomas G. McGuire. The Charter Commission met during the month of February 2003 to draft the Charter for the City.

PREAMBLE

We, the people of the City of Miami Gardens, in order to secure for ourselves the benefits and responsibilities of home rule, in order to provide a municipal government to serve our present and future needs, do hereby adopt this Charter.

CITIZENS' BILL OF RIGHTS

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administration management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

(1) *Convenient Access*. Every person has the right to transact City business with a minimum of personal inconvenience. It shall be the duty of the Mayor, the City Council and the City Manager to provide, within budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the City.

(2) *Truth in Government*. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

(3) *Public Records*. All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.

(4) *Minutes and Ordinance Register*. The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 30 days after the conclusion of the meeting.

(5) *Right to be Heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Council or City agency, board or department for the presentation, adjustment or determination of an issue, request, or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public. The City Council shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

(6) *Right to Notice.* Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

(7) *No Unreasonable Postponements.* No matter, once having been placed on a formal agenda by the City, shall be postponed to another day except for good cause shown in the opinion of the Mayor, City Council, board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

(8) *Right to Public Hearing.* Upon a timely written request from any interested party, and after presentation of the facts to and approval by the Council, a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Law Department of the City nor to any person whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his/her counsel shall be entitled to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. The decision of such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

(9) *Notice of Action and Reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any City administrative decision or proceeding when the decision is reserved at the

conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

(10) *Managers' and Attorneys' Reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective areas of concern.

(11) *Budgeting.* In addition to any budget required by state statute, the City Manager at the direction of the Mayor shall prepare a budget showing the cost of each department for each budget year. Prior to the City Council's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

(12) *Quarterly Budget Comparisons.* The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

(13) *Representation of Public.* The Mayor shall endeavor to designate one or more individuals to represent the City at all proceedings before County, State and Federal regulatory bodies, significantly affecting the City and its residents.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

ARTICLE I. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS

Section 1.1 Corporate Existence.

A municipal corporation resulting from the election authorized by Resolution R-XXXX-03 adopted on XXXXXXXX, 2003 by the Miami-Dade County Board of County Commissioners, which permitted the continuing process of incorporation of the area described in Section 1.3

below, originally known as the City of North Dade, and which shall hereafter be known by the name selected for the City pursuant to the process set forth in Section 8.9 herein below (the "City") is hereby created pursuant to the Constitution of the State of Florida (the "State") and the Home Rule Charter of Miami-Dade County (the "County"). The corporate existence of the City shall commence upon the approval of this Charter by election.

Section 1.2 Form of Government.

The City shall have a "Mayor-Council-Manager" form of government.

Section 1.3 Corporate Boundary.

The corporate boundaries of the City are generally described as follows and shown on the map on Appendix A. In case of a conflict between the Legal Description and the Map, the Legal Description shall govern.

Northern Boundary:	N.W. 215 th Street, Countyline Road.
Eastern Boundary:	N.E. 2 nd Avenue, North Miami Ave.
Southern Boundary:	N.W. 151 st Street, The City of Opa-locka
Western Boundary:	N.W. 57 th Avenue, N.W. 47 th Avenue

The Legal Description for the City is as follows: See Appendix B.

Section 1.4 Powers.

(A) The City shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established by this Charter the broadest exercise of home rule powers permitted under the Constitution and laws of the State of Florida.

(B) The only limitation concerning alienability of City owned property is that there shall be no sale, exchange or lease in excess of five (5) years of any park property while it is being used for public purpose unless such sale, exchange or lease is approved by a majority vote at the next regularly scheduled election of the voters of the City. This provision shall not apply to any valid written contractual obligations entered into prior to the effective incorporation date of this City nor shall it apply to any City owned educational facility, library property or parking facility not located in a park or any utility or access easements or rights-of-way. This provision is intended to restrict sales, exchanges or leases and shall not be applicable to any operating, management or other agreements.

Section 1.5 Construction.

This Charter and the powers of the City shall be construed liberally in favor of the City.

ARTICLE II. MAYOR, VICE-MAYOR AND CITY COUNCIL

Section 2.1 Mayor and Vice-Mayor.

(A) *Powers of the Mayor.* The Mayor shall preside at meetings of the Council and be a voting member of the Council. In addition, the Mayor shall have the following specific responsibilities:

- (1) The Mayor shall present a State of the City address annually.
- (2) The Mayor may create and appoint subject to Council approval, committees of the Council, which may include non-Council members. The members of each committee shall select a chair.
- (3) The Mayor shall be recognized as head of the City government for all ceremonial purposes, for purposes of military law, and for service of process.
- (4) The Mayor shall be the official designated to represent the City in all dealings with other governmental entities.
- (5) The Mayor shall execute contracts, deeds and other documents on behalf of the City as authorized by the Council.
- (6) The Mayor shall appoint the City Manager, City Attorney and City Clerk subject to the approval of the majority of the Council.

(B) *Vice-Mayor.* Shall be selected by the City Council at its first duly held meeting, and shall serve a term of no more than 2 years. During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor.

Section 2.2 City Council.

There shall be a City Council (the "Council") vested with all legislative powers of the City. The Council shall consist of the Mayor, and six Council members ("Council members"). References in this Charter to the Council and/or Council members shall include the Mayor unless the context dictates otherwise.

Section 2.3 Election and Term of Office.

(A) *Election and Term of Office.* Except for the initial election and terms of office specified in Article VIII, the Mayor and each Council member shall be elected for a four year term by the electors of the City in the manner provided in Article V of this Charter. The Mayor and two Council members shall be elected at-large and four Council members shall be elected by Residential Area. The term of office shall end upon the swearing in of his/her successor.

(B) *Seats*. Four Council members shall serve in seats numbered 1-4 described below, and two Council members shall serve at-large in seats numbered 5 and 6, collectively "Seats." Individually each is a "Seat." One Council member shall be elected to each Seat.

(C) *Residential Areas. Seats 1-4*. The City shall be divided into four residential areas. Individually each is a "Residential Area" collectively "Residential Areas." One Council member shall be elected to a Seat from each Residential Area. Council members from Residential Areas are collectively the "Residential Area Council members." Individually each is a "Residential Area Council member." The Residential Areas corresponding to each Seat are formally set forth below:

Seat 1	Northern Boundary:	N.W. 215 th Street
	Eastern Boundary:	N.W. 27 th Avenue, N.W. 20 th Avenue
	Southern Boundary:	N.W. 199 th Street, west to N.W. 37 th Avenue, south to N.W. 191 st Street, west to N.W. 42 nd Avenue, south to SR 826, west to 47 th Avenue.
	Western Boundary:	N.W. 47 th Avenue
Seat 2	Northern Boundary:	N.W. 215 th Street
	Eastern Boundary:	N.E. 2 nd Avenue, south to N.W. 199 th Street, west to North Miami Avenue, south to N.W. 183 rd Street
	Southern Boundary:	N.W. 183 Street
	Western Boundary:	Florida Turnpike, north to N.W 199th Street, west to N.W. 27 th Avenue, north to N.W. 215 th Street
Seat 3	Northern Boundary:	N.W. 199 th Street, south along Florida Turnpike, to N.W. 183 rd Street, east along N.W. 183 rd Street to North Miami Avenue.
	Eastern Boundary:	North Miami Avenue, South to SR 9, southwest on SR 9 to N.W. 151 st Street
	Southern Boundary:	N.W. 151 st Street to N.W. 27 th Avenue.
	Western Boundary:	N.W. 27 th Avenue

Seat 4	Northern Boundary:	N.W. 199 th Street, west to N.W. 37 th Avenue, south to N. W. 191 st Street, west to N.W. 42 nd Avenue, south to SR826, west to 57 th Avenue.
	Eastern Boundary:	N.W. 27 th Avenue.
	Southern Boundary:	N.W. 151 st Street to N.W. 57 th Avenue.
	Western Boundary:	N.W. 57 th Avenue, north to SR 826, east to N.W. 47 th Avenue, north to N.W. 191 st Street, east to 37 th Avenue, north to N.W. 199 th Street, east to N.W. 27 th Avenue.

(D) *Affiliations.* Each person running for elected office shall run independently.

(E) *Limitations on Lengths of Service.* No person shall serve as Mayor for more than two consecutive terms. No person may serve on the Council for more than two consecutive terms. No person may serve as a combination of Mayor and Council member for more than four consecutive terms. After two consecutive terms, a person can sit out one term and run for election.

Section 2.4 Qualifications.

Candidates for Mayor or Council member shall qualify for election by the filing of a written notice of candidacy with the City Clerk at such time and in such manner as may be prescribed by ordinance ("Qualifying Date") and paying to the City Clerk a qualifying fee of \$200.00, in addition to any fees required by Florida Statutes. A person may not be a candidate for more than one office in the same election. Only electors of the City, as defined by Section 5.1(a), who have resided continuously in the City for at least one year preceding their Qualifying Date shall be eligible to hold the Office of Mayor or Council member. In addition, a person may not be a candidate for an open Residential Council member Seat ("Open Seat") unless that person has resided in the Residential Area s/he seeks to represent continuously for a period of one year preceding his/her Qualifying Date.

If at the conclusion of the qualifying period no elector has filed or qualified for an Open Seat, then the qualifying period for that Open Seat shall be reopened for a period of five business days and any qualified elector who resides in the relevant Residential Area and has resided continuously in the City for at least one year may file a written notice of candidacy for the Open Seat in accordance with the provisions of this Section.

Section 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

(A) *Vacancies.* The office of a Council member shall become vacant upon his/her death, resignation, disability, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office.

(B) *Forfeiture of Office.*

(1) *Forfeiture by disqualification.* The Mayor or Council member, shall forfeit his/her office if at any time during his/her term s/he:

- (1) ceases to maintain his/her permanent residence in the City.
- (2) in the case of a Residential Area Council member, upon his/her ceasing to reside in his/her respective Residential Area; a Residential Area Council member shall not forfeit his/her office under this paragraph if, in the process of relocating within a Residential Area, s/he lives outside of his/her Residential Area but within the City for a period of no more than 90 calendar days.
- (3) otherwise ceases to be a qualified elector of the City.
- (4) is convicted of a felony.
- (5) violates any express prohibition of this Charter.
- (6) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law.

(2) *Forfeiture by absence.* The Mayor or Council member shall be subject to forfeiture of his/her office, in the discretion of the remaining Council members, if s/he is absent without good cause from any three regular meetings of the Council during any calendar year or if s/he is absent without good cause from any three consecutive regular meetings of the Council, whether or not during the same calendar year.

(3) *Procedures.* The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Council member's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Council member in question; provided, however, that any Council member may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Council member, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Council member whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Council member in question shall be entitled to a public hearing upon request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Any final determination by the Council that a Council member has forfeited his/her office shall be made by a majority of the Council by resolution. All votes and

other acts of the Council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(C) *Filling of vacancies.* A vacancy on the Council shall be filled as follows

(1) If less than six months remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the Council.

(2) If six months or more remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the Council. The nominee shall fill the vacancy until the next regularly scheduled Miami-Dade County-wide election at which time an election shall be held to fill the vacancy for the balance of the term. However, if the Council is unable to confirm a nominee, a special election to fill that vacancy shall be held no later than 90 calendar days following the occurrence of the vacancy.

(3) If the Mayor's position becomes vacant, the Vice-Mayor shall complete the term of Mayor, even if said complete term shall cause the Vice-Mayor to exceed the term limits as specified in Section 2.3 (E). The vacancy of Vice-Mayor thus created shall be filled in the manner that the vacancy of a Council member is generally filled under this Article. If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the remainder of the term for which elected, and the Vice-Mayor shall be returned to complete the balance of his/her term. The appointment of the person to complete the term of the Vice-Mayor shall be automatically rescinded.

(4) A vacancy in Residential Seats 1-4 shall be filled by a qualified elector residing in the respective Residential Area. A vacancy in the At-large Seats shall be filled by a qualified elector residing in the City.

(5) Persons filling vacancies shall meet the qualifications specified in this Article.

(6) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Council shall appoint a person qualified under this Article to fill the vacancy.

(7) Notwithstanding any quorum requirements established in this Charter, if at any time the full membership of the Council is reduced to less than a quorum, the remaining members may, by majority vote, confirm additional members to the extent otherwise permitted or required under this subsection (C).

(8) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor of the State of Florida shall appoint interim Council members who shall call a special election within not

less than 30 calendar days or more than 60 calendar days after such appointment. Such election shall be held in the same manner as the first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Council appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in this Article.

Section 2.6 Compensation; Reimbursement for Expenses.

Council members shall receive compensation in the amount of \$1,000.00 per month and the Mayor shall receive compensation in the amount of \$3,500.00 per month. These payments shall be increased, but not decreased, by amendment of this Charter. Furthermore elected officials and authorized employees of the City shall receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties limited to no more than \$1,200 per month.

Section 2.7 Recall.

The electors of the City shall have the power to recall and to remove from office any elected official of the City to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the City which shall be required to initiate a recall petition shall be ten (10) percent of the total number of electors registered to vote at the last regular City election.

ARTICLE III. ADMINISTRATIVE

Section 3.1 City Manager.

There shall be a City Manager (the "City Manager") who shall be the chief administrative officer of the City. The City Manager shall be responsible to the Council for the administration of all City affairs and for carrying out policies adopted by the Council. The term, conditions and compensation of the City Manager shall be established by the Council.

Section 3.2 City Manager; Appointment, Removal.

The City Manager shall be appointed by the Mayor. A majority of the Council must approve the appointment of the City Manager. The City Manager shall be removed by a majority vote of the Council. The City Manager shall reside within the boundaries of the municipality or relocate within the boundaries within 180 days of accepting the appointment.

Section 3.3 Powers and Duties of the City Manager.

The Manager shall:

- (1) Be responsible for the appointing, hiring, promoting, supervising and removing of all City employees, except the City Attorney, the City Clerk, and all employees of the Office of the City Attorney and all employees of the Office of the City Clerk.
- (2) Direct and supervise the administration of all departments and offices but not City boards or committees, unless so directed by the Council from time to time;
- (3) Attend Council meetings and have the right to take part in discussion, but not the right to vote;
- (4) Ensure that all laws, provisions of this Charter and directives of the Council, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed;
- (5) Prepare and submit to the Council a proposed annual budget and capital program;
- (6) Submit to the Council and make available to the public an annual report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Prepare such other reports as the Council may require concerning the operations of City departments, offices, boards and agencies;
- (8) Keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as s/he deems to be in the best interests of the City;
- (9) Execute contracts and other documents on behalf of the City as authorized by the Council;
- (10) Perform such other duties as are specified in this Charter or as may be required by the Council; and
- (11) Pursue the collection of all allowable fees and taxes and maximize financial reserves as is necessary to sustain the City and the service levels requested by the citizenry. Periodically compare fee structure to similarly sized municipalities to ensure fair and appropriate pricing.

Section 3.4 Acting City Manager.

To perform his/her duties during his/her temporary absence or disability, the City Manager may designate by letter filed with the Council, a qualified employee of the City. In the event

of failure of the City Manager to make such designation or should the Council be dissatisfied with performance of the person designated, the Council may appoint another employee to serve as Acting City Manager.

Section 3.5 Bond of City Manager.

The City Manager shall furnish a fidelity bond to be approved by the Council, and in such amount as the Council may fix, said bond to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the City.

Section 3.6 City Clerk.

The Mayor shall appoint the City Clerk (the "City Clerk") subject to the approval of the majority of the Council. The City Clerk shall give notice of all Council meetings to its members and the public, and shall keep minutes of the Council's proceedings. The City Clerk shall perform such other duties as the Council may prescribe from time to time. The City Clerk shall report to the Council. The City Clerk may be removed by a majority of the Council. The City Clerk shall maintain the seal of the City and attest the Mayor's or Manager's signature, as the case may be, on all documents if needed.

Section 3.7 City Attorney.

The Mayor shall appoint an individual attorney or law firm to act as the City Attorney under such terms, conditions, and compensation as may be established by the Council. A majority of the Council must approve the appointment. The City Attorney shall report to the Council and may be removed by majority vote of the Council.

Section 3.8 Expenditure of City Funds.

No funds of the City shall be expended except pursuant to duly approved appropriations.

Section 3.9 City Boards and Agencies.

The Council shall establish or terminate such boards and agencies as it may deem advisable from time to time. The boards and agencies shall report to the Council.

Section 3.10 Competitive Bid Requirements/Purchasing.

(A) Except as otherwise provided by law, contracts for public improvements and purchases of supplies, materials or services shall be awarded or made on the basis of clearly drawn specifications and competitive bids, except in cases where the Council, based on the written recommendation of the City Manager, specifically determines by affirmative vote of four Council members that it is impracticable or not advantageous to the City to do so. The City Council shall have the power to reject all bids and advertise again.

(B) The City Manager, by an ordinance approved by a super majority (five or more votes) of the council may be granted purchasing power without competitive bidding or as otherwise mandated by law.

(C) No contract or order shall be issued to any vendor unless or until the City Manager or his/her designee certifies that there is to the credit of such office, department or agency a sufficient unencumbered budget appropriation to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

ARTICLE IV. LEGISLATIVE

Section 4.1 Council Meeting Procedure.

(A) *Meetings.* The Council shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the Council may prescribe. Special meetings may be held on the call of the Mayor or upon the call of four Council members upon no less than 48 hours notice to the public or such shorter time as a majority of the Council deems necessary in case of an emergency affecting life, health, property or the public peace.

(B) *Rules and Minutes.* The Council shall determine its own rules of procedure and order of business and shall keep minutes open for public inspection.

(C) *Quorum and Voting.* A majority of the Council shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Voting on ordinances shall be by roll call on final reading. Voting on all other matters shall be by voice vote unless a Council member or the City Clerk requests otherwise. In the event that three or more Council members are unavailable to vote on a particular matter due to required abstention pursuant to State law, then the remaining members of the Council may vote and approve such matter by unanimous vote.

(D) *Meeting Time Limits.* No meeting of the Council shall extend later than midnight except upon the affirmative vote of a majority of members present at the meeting.

Section 4.2 Prohibitions.

(A) *Appointment and Removals.* Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City employees, whom the City Manager or any of his/her subordinates are empowered to appoint. The Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(B) *Interference With Administration.*

(1) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the Council, the Council and any of its

individual members shall deal with City employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such employee, except the City Manager and the City Attorney, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in City government operations by individual Council members are made solely to and through the City Manager. Council members may discuss with the City Manager any matter of City business; however, no individual Council member shall give orders to the City Manager.

(2) Any willful violation of this Section by the Mayor or any Council member shall be grounds for his/her removal from office by an action brought in the Circuit Court by the State Attorney of Miami-Dade County.

(C) *Holding Other Office.* No elected City official shall hold any appointed City office or City employment while in office, or any other county, state or federal elected office. No former elected City official shall hold any compensated appointive City office or City employment until one (1) year after the expiration of his/her term.

Section 4.3 Ordinances.

(A) *Actions Requiring an Ordinance.* In addition to other acts required by law or by specific provision of this Charter to be effected or authorized by ordinance, those acts of the City Council shall be by ordinance which:

- (1) Adopt or amend an administrative regulation or establish, alter or abolish any City office, department, board or agency;
- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes or appropriate funds;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
- (6) Authorize the borrowing of money in accordance with section 4.11;
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the City;
- (8) Regulate land use through zoning and other means; or
- (9) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.

Section 4.4 Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt, in the manner provided in this Section, one or more emergency ordinances, but emergency ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter if applicable.

(1) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(2) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by no less than four members of the Council. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.

(3) *Effective Date.* An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

(4) *Repeal.* Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the 61st calendar day following its effective date, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this Section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for adoption of emergency ordinances.

(5) *Emergency Appropriations.* The Council may make emergency appropriations in the manner provided in this Section. Notwithstanding the provisions of Section 4.11 to the extent that there are no available unappropriated revenues to meet such appropriations, the Council may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable no later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted.

Section 4.5 Annual Budget Adoption.

(A) *Balanced Budget.* Each annual budget adopted by the Council shall be a balanced budget and adopted in accordance with Florida law.

(B) *Budget Adoption.* The Council shall by ordinance adopt the annual budget on or before the thirtieth (30th) day of September of each year. If it fails to adopt the annual budget by this date, the Council may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days, with all items in it prorated accordingly, until such time as the Council adopts an annual budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein.

(C) *Specific Appropriation.* The budget shall be specific as to the nature of each category of appropriations therein. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

Section 4.6 Fiscal Year.

The fiscal year of the City government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

Section 4.7 Appropriation Amendments During the Fiscal Year.

(A) *Supplemental Appropriations.* If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Council may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.

(B) *Reduction of Appropriations.* If, at any time during the fiscal year, it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, s/he shall report in writing to the Council without delay, indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Council shall then take such action as it deems appropriate to prevent any deficit spending.

Section 4.8 Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

(A) *Authentication.* The Mayor and the City Clerk shall authenticate by their signature all ordinances and resolutions adopted by the Council. In addition, when Charter amendments have been approved by the electors, the Mayor and the City Clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.

(B) *Recording.* The City Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Council. Ordinances shall, at the direction of the Council, be periodically codified. The City Clerk shall also maintain the Charter in current form including all Charter amendments.

(C) *Availability of Enactments.* The Council shall establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter available for public inspection and available for purchase at a reasonable price.

Section 4.9 Tax Levy, Assessments and Fees.

The City, by majority of the Council, shall have the right to levy, assess and collect all such taxes, assessments and fees as are permitted by law, including without limitation, fines, ad valorem taxes, special assessments and fees, excise, franchise or privilege taxes and taxes on services and utilities.

Section 4.10 Independent Audit.

The Council shall provide for an annual independent audit of all City accounts and may provide more frequent audits as it deems necessary. Audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants who have no personal interest direct or indirect in the fiscal affairs of the City government, its employees or officers. Residency, per se, shall not constitute a direct or indirect interest. A summary of the results, including any deficiencies found, shall be made public. A written response to any noted deficiencies shall be the responsibility of the City Manager. The response shall be made public no more than 90 calendar days from delivery of the independent auditor's report.

Section 4.11 Borrowing.

The City shall incur no debt unless the incurrence of such debt is approved by a majority of the council.

ARTICLE V. ELECTIONS

Section 5.1 Elections.

(A) *Electors.* Any person who is a resident of the City, has qualified as an elector of the State, and registers to vote in the manner prescribed by law shall be an elector of the City.

(B) *Nonpartisan Elections.* All elections for the Council and Mayor shall be conducted on a nonpartisan basis. The ballot shall not show the party designation of any candidate.

(C) *Election Dates.* A general election shall be held in each even-numbered year, on the day of the first state primary election, or if none is held in any such year, on the first Tuesday following the second Monday in September. A runoff election, if necessary, shall be held on the day of the second state primary election or if none is held in any such year, then on the first Tuesday in October. The Council shall hold no meetings between the general election and the swearing in of those newly elected or re-elected Council members except in the case of an emergency affecting life, health, property or the public peace.

(D) *General Election.* The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the seats which are to be filled as a result of members' terms expiring. The ballot shall instruct electors to cast one vote for Mayor and one vote for each Council Seat, with a maximum of one vote per candidate. If any candidate for Mayor receives a number of votes greater than 50% of the total number of ballots cast, such candidate shall be the duly elected Mayor and no run-off election for Mayor shall be required. If any candidate for a Council Seat receives a number of votes greater than 50% of the total number of ballots cast, such candidate(s) shall be duly elected to the Council and no run-off election for that Seat(s) shall be required.

(E) *Run-off Election.* If necessary, the ballot for the runoff election shall contain the names of the two candidates for Mayor and the names of the two candidates for each Council Seat, who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor and one vote for each Council Seat, with a maximum of one vote per candidate. The candidate for Mayor receiving the most votes shall be duly elected Mayor. The candidate for each Council Seat receiving the most votes shall be duly elected to that Council Seat.

(F) *Special Elections.* Special elections, when required, shall be scheduled by the Council at such times and in such a manner as shall be consistent with this Charter and State law.

(G) *Single Candidates.* No election for Mayor or any Council Seat shall be required in any election if there is only one duly qualified candidate for Mayor or for any Council Seat. That candidate shall be considered elected by operation of law.

(H) *Commencement of Terms.* The term of office of all elected officials will commence at the next regularly scheduled council meeting following the day of the run-off election or, if there is no run-off election for Mayor or Council Seat, at the next regularly scheduled council meeting after the general election.

Section 5.2 Initiative and Referendum.

(A) *Power to Initiate and Reconsider Ordinances.*

(1) *Initiative.* The electors of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, provided that the required signature in Sec. 5.2(c)(1) have been met and provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees.

(2) *Referendum.* The electors of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the annual budget or capital program or

any ordinance appropriating money, levying taxes or setting salaries of City officers or employees.

(B) *Commencement of Proceedings.* A minimum of ten electors may commence initiative or referendum proceedings by filing with the City Clerk an affidavit (the "Affidavit") stating they will constitute the petitioners' committee (the "Committee") and be responsible for circulating the petition (the "Petition") and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the Affidavit of the Committee is filed, the City Clerk shall at the Committee's request, issue the appropriate Petition blanks to the Committee at the Committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the City Attorney prior to circulation.

(C) *Petitions.*

(1) *Number of Signatures.* Initiative and referendum petitions must be signed by at least five (5) percent of the total number of electors registered to vote at the last regular City election.

(2) *Form and Content.* All pages of a Petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(3) *Affidavit of Circulator.* Each page of a Petition shall have attached to it when filed an affidavit executed by the circulator stating that s/he personally circulated the page, the number of signatures contained, that all the signatures were affixed in his/her presence that s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(4) *Filing Deadline.* All Petitions must be filed within 60 calendar days of the date a proper Affidavit is filed pursuant to subsection (B) of this section.

(D) *Procedure for Filing.*

(1) Certificate of Clerk; Amendment. Within 20 calendar days after an initiative Petition is filed or within five business days after a referendum Petition is filed, the City Clerk shall complete a certificate as to its sufficiency ("the Certificate"). If insufficient the Certificate shall specify the particulars of the deficiency. A copy of the Certificate shall be promptly sent to the Committee by registered mail. Grounds for insufficiency are only those specified in subsection (C) of this Section. A Petition certified insufficient for lack of the required number of valid signatures may be

amended once if the Committee files a notice of intention to amend it with the City Clerk within two calendar days after receiving the copy of the Certificate and files a Supplementary Petition ("Supplementary Petition") with the City Clerk with additional valid signatures within ten calendar days after receiving the copy of such Certificate. Such Supplementary Petition shall comply with the requirements of subsection (C) of this Section. Within five business days after a Supplementary Petition is filed the City Clerk shall complete a Certificate as to the sufficiency of the Petition as amended ("Amended Petition") and promptly send a copy of such Certificate to the Committee by registered mail. If a Petition or Amended Petition is certified sufficient, or if a Petition or Amended Petition is certified insufficient and the Committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the City Clerk shall promptly present his/her certificate to the Council and such Certificate shall then be a final determination as to the sufficiency of the petition.

(2) *Council Review.* If a Petition has been certified insufficient and the Committee does not file notice of intention to amend it or if an Amended Petition has been certified insufficient, the Committee may, within two calendar days after receiving the copy of such Certificate, file a request with the City Clerk that it be reviewed by the Council. The Council shall review the Certificate at its next regularly scheduled meeting following the filing of such request and approve or disapprove it. The Council's determination shall then be a final determination as to the sufficiency of the Petition.

(E) *Action on Petitions.*

(1) *Action by Council.* When an initiative or referendum Petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 45 calendar days or fails to repeal the referred ordinance within 30 calendar days, it shall submit the proposed or referred ordinance to the electors of the City. If the Council fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in this paragraph, the Council shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Council was authorized to act on such matter.

(2) *Submission to Electors.* The vote of the City on a proposed or referred ordinance shall be held not less than 30 calendar days or more than 60 calendar days from the date the Council acted or was deemed to have acted pursuant to paragraph (1) of this subsection. If no regular election is to be held within the period described in this paragraph, the Council shall provide for a special election, except that the Council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) *Withdrawal of Petitions.* An initiative or referendum Petition may be withdrawn at any time prior to the 15th calendar day preceding the day scheduled for a vote by the City by filing with the City Clerk a request for withdrawal signed by at least eight/tenths (8/10) of the Committee. Upon the filing of such a request, the Petition shall have no further force or effect and all proceedings shall be terminated.

(F) *Results of Election.*

(1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar may not be submitted in accordance with this Article for at least one year from the date of the election.

(2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote for repeal, the repealed ordinance shall be considered repealed upon certification of the election results.

Section 5.3 Ethical Campaigns.

(A) The City shall pass ordinance(s) governing campaign contributions to insure fair elections that are not unduly influenced by monetary contributions.

(1) The ordinance should cap campaign contributions.

(2) The ordinance should permit contributions to only come from individual donors.

(3) The ordinance should incorporate any other laws deemed necessary to insure fair elections.

(B) All candidates must abide by Miami-Dade County's Ethical Campaign Practice Ordinance and any other laws promulgated by the Council to insure fair and ethical campaigns.

ARTICLE VI. CHARTER AMENDMENTS

Section 6.1 Procedure to Amend.

(A) The Charter may be amended in accordance with the provisions of Section 5.03 of the Home Rule Charter of Miami-Dade County. The City shall enact an ordinance to implement this Article.

(B) If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.2 Charter Revision.

(A) At its first regular meeting in December 2008, and thereafter every fifth year, the Council shall appoint and fund a Charter Revision Commission (the "Commission").

(B) The Commission shall consist of five persons including one from each of the four Residential Areas. One appointment shall be made by the Mayor and each Residential Council member. In addition, the Mayor shall appoint one person to the Commission who is the Vice-Mayor or Council member who is serving a second consecutive term, who shall serve as a non-voting Commission member. In the event a second term Vice-Mayor or Council member is not serving, the Mayor may appoint a sitting Vice Mayor or Council member. The Mayor shall not be eligible for appointment to the Commission. The Commission shall commence its proceedings within 45 calendar days after appointment by the Council.

(C) If the Commission determines that an amendment or revision is needed, it shall submit the same to the Council no later than July 1st of the year following its appointment. Alternative proposals may be submitted. The Council shall submit suggested amendments and revisions to the electors of the City in accordance with the provisions of Section 6.1, at the next regularly scheduled election.

ARTICLE VII. GENERAL PROVISIONS

Section 7.1 Severability.

If any article, section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such article, section or part of section so held invalid may appear, except to the extent that an entire article, section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 7.2 Conflicts of Interest; Ethical Standards.

(A) All Council members, officials and employees of the City shall be subject to the standards of conduct for public officers and employees set by Miami-Dade County or such other ethical standard adopted by the Council. The Council may, by ordinance, adopt additional standards of conduct and a code of ethics, but in no case inconsistent with law.

(B) All elected officials, employees and appointed board or committee members shall disclose any interest in real estate or other business(es) upon entering office or being hired and shall re-disclose annually thereafter, except as otherwise provided by law.

(C) Without in any way limiting the generality of the foregoing, no Council member shall have a financial interest, direct or indirect, or by reason of ownership of stock or other

equity ownership in any corporation or entity, in any contract or in the sale to the City or to a contractor supplying the City of any land or rights or interests in any land, materials, supplies, or services unless, after full disclosure to the Council of the nature and extent of such interest, the same is authorized by the Council before the event or accepted and ratified by the Council after the event. No member of the Council who possesses such a financial interest shall vote on, or participate in the Council deliberations concerning, any such contract or sale. Any violation of this Section with the knowledge of the person or entity contracting with the City shall render the contract voidable by the Council.

Section 7.3 City Personnel System.

All new employment, appointments and promotions of City employees shall be made pursuant to personnel procedures to be established by the Manager from time to time. The City shall make all efforts to encourage the hiring of City residents and to encourage all employees to reside within the municipal boundaries.

Section 7.4 Variation of Pronouns.

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Charter.

Section 7.5 No Discrimination.

The City shall not adopt any ordinance or policy that discriminates against any person due to race, religion, color, national origin, physical or mental disability, creed, age, sexual preference or gender.

Section 7.6 Lobbyists.

(A) The City Council shall pass, maintain and enforce an ordinance, which requires all lobbyists as may be defined by the Miami-Dade County Code and/or as may be made more stringent by the City Council to:

- (1) Register with the City Clerk prior to lobbying any City government official i.e., City Council member, City Manager, employee, board or committee member;
- (2) Disclose in writing all persons and/or entities the lobbyist is representing and submit a letter of permission from said person or entity;
- (3) Submit a full disclosure of the comprehensive terms of all compensation or consideration the lobbyist is being paid for such activities;

(4) Disclose in writing all City government officials directly contacted by the lobbyist, any expenditures involved, any fundraising or campaign contributions made directly or indirectly by the lobbyist to any City government officials or on their behalf;

(5) Direct the City Clerk to disseminate to the City Council, prior to any public hearing, on the event or matter for which such lobbyist may appear all disclosures required herein or as otherwise required by State or County law;

(6) The City shall develop appropriate sanctions for violations of this section, including but not limited to rendering the issue being lobbied voidable.

(B) Elected officials shall be prohibited for one (1) year following their term in office from lobbying on behalf of another, any elected official, employee or appointed board or committee member.

Section 7.7 Precedence over Related Laws.

In case of a conflict between the provisions of this Charter and the provisions of the Code to be adopted pursuant thereto, the Charter terms shall control. Moreover, nothing in this Charter shall be construed to alter, abolish, affect or amend the general laws of this State, now in force, or which hereinafter may be enacted relative to or affecting this City, except where such laws are in direct conflict in which case the provisions of this Charter or Code adopted pursuant thereto shall supersede and be in full force and effect.

ARTICLE VIII. TRANSITION PROVISIONS

Section 8.1 Temporary Nature of Article.

The following sections of this Article are inserted solely for the purpose of effecting the incorporation of the City and the transition to a new municipal government. Each section of this Article shall automatically, and without further vote or act of the electors of the City, become ineffective and no longer a part of this Charter at such time as the implementation of such section has been accomplished. In cases of a conflict between this Article and the remainder of the Charter the provisions of this Article shall govern.

Section 8.2 Interim Governing Body.

After adoption of this Charter, but prior to the election and acceptance of office of the first elected City Council, the governing body for the City shall be the Miami-Dade County Board of County Commissioners (the "County Commission"). In acting as the governing body for the City during this interim period, the County Commission shall provide all municipal services to the City but shall not make decisions, which could reasonably be postponed until the election of the City Council or which would materially alter or affect the status quo within the City boundaries. Once the City Council is seated, notwithstanding the delivery of any services provided by virtue of Article IX of this Charter or any Interlocal Agreement(s)

with Miami-Dade County, it is understood that the City Council shall make all decisions for the City.

Section 8.3 Interim Adoption of Codes and Ordinances.

Until otherwise modified or replaced by this Charter or the City Council, all Codes, ordinances and resolutions in effect on the date of adoption of this Charter shall, to the extent applicable to the City, remain in full force and effect as municipal Codes, ordinances and resolutions of the City. Until otherwise determined by the City Council, said codes, ordinances and resolutions shall be applied, interpreted and implemented by the City in a manner consistent with established policies of Miami-Dade County on the date of this Charter.

Section 8.4 Taxes and Fees.

Unless otherwise modified by the City Council, all municipal taxes and fees imposed within City boundaries by Miami-Dade County as the municipal government for unincorporated Miami-Dade County, which taxes and fees are in effect on the date of adoption of this Charter, shall continue at the same rate and on the same conditions as if those taxes and fees had been adopted and assessed by the City.

Section 8.5 Initial Election of City Council and Mayor.

(A) *Transition.* This Section shall apply to the initial general and runoff elections for Council and Mayor. Any conflicting provisions of this Charter shall not apply to such elections.

(1) The general election shall be held on June 24, 2003. The first City run-off election, if necessary, shall be held on July 22, 2003.

(2) The general and run-off election in 2003 shall be held pursuant to the general election procedures set forth in this Charter except as follows:

(a) Only those candidates will qualify for election who have filed written notice of candidacy for Council member or Mayor (but not more than one) with the Miami-Dade County Elections Department, which notice is received between 7:30 a.m. on the first day of qualifying, May 15, 2003, and 5:00 p.m. on the last day of qualification, May 16, 2003, and which notice shall:

(i) indicate whether the candidate seeks the office of Council member or Mayor; if for Council member, a particular seat 1- 6 shall be designated;

(ii) contain the candidate's certification that s/he is a qualified elector of the State, is registered to vote in the City and that the person has resided continuously within the area comprising the City for one year prior to the qualifying date;

(iii) if applicable, a certification that the candidate has resided continuously in the Residential Area they are seeking to represent for one year prior to the qualifying date;

(iv) contain or be accompanied by such other information or statement, if any, as may be required by the Miami-Dade County Election Department;

(v) be signed by the candidate and duly notarized; and

(vi) be accompanied by a check payable to the Miami-Dade County Elections Department in the amount of \$200.00 in addition to any fees required by Florida Statutes, as a qualifying fee.

(3) There will be one Mayor, and six Council seats to be filled. By majority vote of the Council, the Vice Mayor will be selected.

(4) The Mayor will be elected to a term expiring in November 2008 or election of his/her successor.

(5) The odd numbered seats for Council members shall be elected to terms expiring in November 2008 or election of his/her successor.

(6) The even numbered seat for Council members shall be elected to terms expiring in November 2006 or election of his/her successor.

(B) *Induction into Office.* Those candidates who are elected at the first regular election shall take office at the initial Council meeting, which shall be held as early as one day after the election of the officers, but no longer than two weeks after the election of the officers, or if a run-off election is necessary for any Seat, the initial Council meeting shall be held as early as one day after the run-off election of the officers, but no longer than two weeks after the run-off election of officers.

Section 8.6 Initial Expenditures.

Upon receipt by the City of its first revenues, the City shall immediately pay the invoices for utilities and for expenses, if any, incurred in the drafting and production of this Charter, including but not limited to invoices for legal services, secretarial services, photocopies, mailing and other services authorized by the City of North Dade Charter Commission.

Section 8.7 First Fiscal Year and Budget.

The first fiscal year of the City shall commence on the effective date of this Charter and shall end on September 30, 2004. The 2002-03 budget shall be adopted by the Board of

County Commissioners, however the elected City Council may thereafter amend the budget in accordance with State law.

Section 8.8 Transitional Ordinances and Resolutions.

The Council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 calendar days after the first Council meeting may be passed as emergency ordinances. These transitional ordinances shall be effective for a period of no longer than 180 calendar days and thereafter may be readopted, renewed or otherwise continued only in the manner normally prescribed for ordinances.

Section 8.9 City Name.

The City shall be named the "City of Miami Gardens."

Section 8.10 Creation of City.

For the purpose of compliance with Section 200.066, Florida Statutes, relating to the assessment and collection of ad valorem taxes, the City is created and established as a City upon acceptance of the Charter.

ARTICLE IX. SPECIAL CONDITIONS

Section 9.1 Interlocal Agreements.

Within one hundred eighty (180) days after the election of a municipal council, the City will enter into an interlocal agreement ("Interlocal Agreement") with Miami-Dade County to set forth contractual provisions establishing the municipality's relationship with Miami-Dade County to the extent required by the Charter.

Section 9.2 County Services.

The City shall remain a part of and receive services at a minimum service level equal to the service level as of the date of approval of this Charter by the electors of the City, in perpetuity, from the:

- (1) Miami-Dade Fire Rescue District,
- (2) Miami-Dade Library System, and
- (3) Miami-Dade Solid Waste Collection Service Area.

Provided that the County shall not have the right or ability to impair or infringe upon the functions and powers assumed by the City upon incorporation.

Section 9.3 Specialized Law Enforcement Services.

The City shall pay from its municipal funds, for specialized law enforcement services to be exclusively provided by the Miami-Dade Police Department in perpetuity. Payment amounts and other pertinent terms relating to the provision of specialized police services shall be set forth in a contract between the City and Miami-Dade County. These specialized police services include, but are not limited to, tactical services, such as special response team, canine, bomb squad investigations and central investigations, such as narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, domestic violence, crime scene investigations and property and evidence. Specialized law enforcement services do not include police activities of a countywide nature such as warrants, crime lab, public corruption unit, communications, jail, court services, and all Sheriff's services as defined by State law. For as long as Miami-Dade County continues to fund specialized police services from the countywide budget, residents in the City shall receive a credit equivalent to the payment made through the countywide millage for specialized police services.

Section 9.4 Local Patrol Police Services.

The City shall exclusively utilize the Miami-Dade Police Department for a specific level of patrol staffing for an initial period of three years. The utilization of the Miami-Dade Police Department for local patrol services may only be terminated for cause during this initial three (3) year period. Payment amounts and other pertinent items relating to the provision of local patrol services shall be set forth in a contract between the City and Miami-Dade County. Such contract shall also provide that "the initial three-year period" shall commence upon the execution of the Local Patrol Contract by all parties. At the end of the three (3) year period the City may elect not to renew the Local Patrol Contract at which point a transition period of no less than twelve (12) months will begin.

Section 9.5 Regulatory Control.

The local government comprehensive plan adopted by the City pursuant to Chapter 163, Part II, Florida Statutes, shall be consistent with the adopted Miami-Dade County Comprehensive Development Master Plan ("the CDMP") as it may be amended from time to time, as applied to the sites listed below:

DEPARTMENT/FACILITY	LOCATION
MIAMI-DADE POLICE DEPARTMENT	
Carol City Station	18805 NW 27 th Avenue
MIAMI-DADE FIRE DEPARTMENT	
Carol City Station	18705 NW 27 th Avenue
Bunche Park Station	15250 NW 27 th Avenue
Miami-Dade Fire Station 38	575 NW 199 th Street
DEPARTMENT OF SOLID WASTE MANAGEMENT	
Miami Gardens Trash & Recycling Facility	16300 NW 42 nd Avenue
Norwood Trash & Recycling Facility	19901 NW 7 th Avenue

WATER AND SEWER DEPARTMENT	
Regional Pump Station 421	20215 NW 2 nd Avenue
Regional Pump Station 422	3150 NW 208 th Terrace
Regional Pump Station 1310	NW 151 st Street & 37 th Ave.

The list of facilities may be revised by the Miami-Dade County Board of County Commissioners from time to time.

Any use or activity allowed by the CDMP may not be limited or impeded in any way by the local government comprehensive plan adopted by the City. Additionally, the City shall pass no ordinance or regulation that would limit or impede the operation of the aforementioned County facilities. Jurisdiction over the listed sites for purposes of zoning and building approvals (including but not limited to site plan approvals, issuance of building permits, building inspections, compliance with the South Florida Building Code or other applicable building code, issuance of certificates of occupancy, zoning applications, special exceptions, variances, building and/or zoning moratoria, and all other types of functions typically performed by Building and/or Zoning Departments) water and sewer installations, compliance with environmental regulations, and utility regulation shall be and is hereby vested in Miami-Dade County regardless of any City code, or ordinance provision to the contrary.

This provision shall not alter or affect the legal rights of any person residing or owning real property within the City. The City shall not institute, intervene or otherwise participate in, in opposition to Miami-Dade County in any judicial or formal administrative proceeding regarding land use or development of the listed sites, or Miami-Dade County's planning or regulatory requirements for any of these facilities of countywide significance. This section shall not apply to particular site listed above if there has been an official determination by the Board of County Commissioners of Miami-Dade County that a site will no longer be used by Miami-Dade County.

Section 9.6 Stadium Properties; Dolphin Center DRI

In recognition of the fact that Stadium Properties, referenced in Appendix "C", has significant importance to the economy and well-being of all of Miami-Dade County, jurisdiction over the Properties for purposes of zoning and building approvals, water and sewer installations (if applicable), compliance with environmental regulations, street maintenance (including sidewalks, if applicable) and utility regulation shall remain with Miami-Dade County.

The City will preserve the rights and approvals of Stadium Properties, as referenced in Appendix "C", and its surrounding development which are laid out in the DRI Development Order Resolution Z-210-85, dated September 26, 1985, and zoning resolutions and ordinances affecting Stadium Properties, as amended through December 31, 2012. Notwithstanding the foregoing, jurisdiction for the Dolphin Center DRI Development Order and any amendments thereto shall remain with Miami –Dade County. Commencing with

the date of incorporation, the City shall have all other jurisdiction over the property described in Appendix "D".

Within one hundred eighty (180) days after the election of a municipal council, the City and Miami-Dade County will enter into an interlocal agreement that includes the provisions of this Section.

Section 9.7 Continuing Obligations as to County Bonds.

The County has heretofore issued \$41,580,000.00 Stormwater Utility Revenue Bond Series 1999 (the "Stormwater Bond") of which \$ 38,805,000.00 remains outstanding as of May 1, 2002, payable from stormwater utility fees collected in the unincorporated area and within a limited number of cities. The County assesses and collects the stormwater utility fee pursuant to Sections 24-61 through 24-61.5 of the County Code, as amended from time to time and Section 403.0893, Florida Statutes, as amended from time to time (the "Stormwater Utility Fees").

The County has issued \$77,640,000.00 Public Service Tax Revenue Bonds (UMSA Public Improvements) Series 1999 (the "Series 1999 Public Service Bonds") currently outstanding in the principal amount of \$71,295,000.00 and will issue an additional series of bonds in an amount not to exceed \$60,000,000.00 (the "Series 2002 Public Service Bonds") prior to the City's incorporation payable from Public Service Taxes (defined below) collected in the unincorporated area. The County receives a public service tax pursuant to Section 166.231, Florida Statutes, as amended from time to time, and as of October 1, 2001, from a discretionary communications tax assessed pursuant to Chapter 202, Florida Statutes and Section 29 of the County Code (collectively, "The Public Service Tax"). If required by the County the City agrees to enact an ordinance, pursuant to Section 202.19, Florida Statutes, authorizing the levy of the discretionary services tax a rate no less than the rate established by the County for communications services prior to the incorporation of the City.

The Stormwater Bonds, the Series 1996 Public Service Bonds, the Series 1999 Public Service Bonds, the Series 2002 Public Service Bonds, and any bonds issued in the future, provided that the City remains a part of the Stormwater utility system, that are secured either through Stormwater Utility Fees or Public Service Taxes are referred to collectively in this Section as the "Bonds".

The City agrees that until the Bonds are retired the County shall have the right to receive and apply to debt service on the Bonds all of the Stormwater Utility Fees and the Public Service Taxes collected within the unincorporated area and within the boundaries of the City. After the County has paid or satisfied the debt service requirements on the Bonds, the County shall make a payment to the City, equal to its share of the remaining Stormwater Utility Fees and Public Services Taxes on deposit with the County. Its share shall be determined as follows: the County will distribute to the City the net proceeds available from these taxes. The net proceeds will be calculated by taking the gross taxes attributable to the City and then subtracting the City's share of the debt service payments. The City's share will be determined by calculating the cost of the projects funded by the

bonds conducted within the City boundaries as a percentage of the total bond expenditures, and then applying this percentage to the annual bond payments made by the County. The City may prepay its proportionate share of the aforementioned bonds at any time during the life of the bonds with out penalty.

Section 9.8 Favored Nation Status.

(A) *County Services.* If a subsequent incorporation is approved without the newly incorporated area being required to remain in the Miami-Dade Fire Rescue District, Miami-Dade Library System, Miami-Dade Solid Waste collection service area, or without contracting with the Miami-Dade Police Department for local patrol and specialized police services, the City will be entitled to modify its relationship with the County consistent with the manner that each of the aforementioned services is provided to the new municipality.

The provisions of this section, apply only to the service or services modified, and in no way alter the agreement regarding the remaining services.

Section 9.9 Rights of the City.

The City will be granted all rights powers and privileges afforded to all municipalities and provided under the general laws of the State of Florida subject only to the restrictions placed upon it by this Charter. The city will receive all other municipal revenue sources such as utility taxes including those that the County by right may otherwise retain, such as the franchise fees, and will continue to receive all services that are provided to cities under the countywide budget.

Section 9.10 Modifications.

Any modifications to Article IX will require:

- (1) All approvals normally required by the municipal charter, and
- (2) Approval by two-thirds (2/3) of the total membership of the Miami-Dade County Board of County Commissioners.

Article X. Carol City Community Center

Section 10.1 Transfer of Funds from County.

Miami-Dade County has indicated its intent to appropriate \$6.5 million dollars for planning and construction of the "Carol City Community Center." Miami-Dade County shall pay \$6.5 million dollars to the City, subject to an interlocal agreement, and the City agrees to utilize said funds to pay for the planning and the construction of the community center.

